

**Summary of IDEM Workgroup Meeting
ANTIDEGRADATION/OSRW**

Friday, January 24, 2003

IDEM, 2525 N. Shadeland Ave., Conference Room D, Indianapolis
10:00a.m. – 3:00p.m. E.S.T.

Introduction:

On Friday, January 24, 2003, IDEM staff met for the fourth time with a wide cross-section of stakeholders which make up the Antidegradation/OSRW workgroup. These notes are intended to be a summary of the major points from the meeting held at IDEM's IGCN offices.

The meeting was called to order by Larry Wu. Those in attendance for all or part of the meeting included: Art Umble, Bill Beranek, Bowden Quinn, Chad Frahm, Dan Olson, Kent Halloran, and Tom Simon.

In addition, the following IDEM staff members were present for all or part of the meeting: David Kallander, Dennis Clark, John Nixon and Megan Wallace.

Summary:

The workgroup discussed the following:

1. The minutes from the November 22, 2002 and December 19, 2002 were approved with the comment that the acronyms for Great Lakes Initiative (GLI) and Bioconcentrating Chemical of Concern (outside the basin), Bioaccumulating Chemical of Concern (inside the basin) (BCC) should be spelled out on the website.
2. Tier 2 Issues discussed:
 - A. The scope of states to look at when comparing policy issues was the first issue discussed. The following options were discussed:
 1. Charlotte Read suggested, via email, that all 50 states (a nationwide survey) be added to the comparison.
 2. Tom Simon suggested adding the Ohio basin states to the comparison (Pennsylvania, West Virginia, and Kentucky(which is already added))
 3. Art Umble suggested adding Colorado to the comparison.
 4. After discussion on the topic, the workgroup decided that while data for all states would be useful it would be too time consuming to add all 50 states. Pennsylvania and West Virginia were added for the reason that the majority of Indiana has more in common, according to Tom Simon, with the Ohio River Basin than the Great Lakes System. Colorado was added because of its original approach to the policy issues. It was decided that these states would be the workgroup's focus, but the workgroup would be open to considering other states if there was a compelling reason for doing so.

5. The workgroup also agreed to have this work proceed in parallel with other workplan activities to keep the process moving forward.
- B. Excerpts from the Second Notice of the withdrawn triennial review rule from 1999, #97-1(WPCB), were looked at and stimulated a lengthy discussion on antidegradation policy. Some of the policies and issues discussed are as follows:
 1. "Necessary to accommodate important economic or social development"
 - a) The language in the old notice and EPA's language suggest that there are two separate tests involved with antidegradation.
 - 1) The first test being, "if it is necessary to degrade the water".
 - 2) The second being, "if it is socially and economically justifiable".
 - b) Part of the workgroup believes that these tests should be combined into a one step process (this approach is consistent with the U.S. EPA).
 - c) The term "necessary" needs to be defined. Doing so will reduce the subjective component of the decision making.
 - d) The WQAG report looked at EPA's language and tried to take the subjectivity out of it. It was suggested to look at the idea of combining the two tests as mentioned above in 2.B.1. and reduce the subjectivity of the test.
 - e) Looking at "socially and economically justifiable" can be tricky. Companies may promise big economic benefit and say what practices they will be using. If the company fails to deliver on its promises, the community may never see economic benefit as the waters are being degraded. A follow up visit/inspection was mentioned to see if companies are doing what they said they would be doing.

The workgroup agreed that whether the test is "necessary and accommodates" or "necessary to accommodate" how implementation is set up will be the most important factor.

2. Environmental Justice Issues. The workgroup discussed having different standards for different waters which brought about a good discussion on environmental justice issues and which policy is trying to be upheld. Listed below are examples of questions that were discussed:
 - a) Are we trying to uphold the goal of the Clean Water Act (CWA) to eliminate toxic discharges to water or are we trying to just stop new discharges to water and maintain the already degraded state of Indiana waters?
 - b) Are we forcing businesses to go into rural communities and pollute higher quality water? Are we sending a message to stay away from the already degraded waters and go degrade the cleaner waters?
 - c) Should we be looking at looser standards on brownfields instead of encouraging greenfield development?
 - d) If we do put looser standards on brownfields, does that violate environmental justice?

It was noted that antidegradation is all about public participation. The question is, who should be making these decisions?

3. Can an Antidegradation review be avoided? The workgroup discussed looking at new ways of dealing with antidegradation such as:
 - a) Use landscape and GIS features.
 - b) Index of Biotic Integrity (IBI).
 - c) Look at general high quality instead of parameter by parameter (what is high quality and what isn't?)
 - d) Finding a way that does not deal with loads.

May need to reconsider what a "watershed" is. What do we want the streams to look like in the future?
 4. Colorado. This approach represents thinking "outside the box". Their approach is on segment by segment basis and is sensitive to land use.
 - a) What if data are not available? The discharger is responsible to obtain data.
 - b) What about biology? The Colorado approach is based on chemistry, not biology.
 - c) Antidegradation is set at low flow. May want the policy to be set at average flow. Will give flexibility and move away from wasteload allocations. -- "Average" may be difficult to determine.

Copies were made of Art Umble's Colorado document and distributed to the workgroup members for further discussion at the next meeting.
3. The workgroup asked for volunteers to present the issues being discussed to the Water Pollution Control Board (WPCB). Bowden Quinn will present the workgroup's activities at the WPCB meetings.
 4. Meeting dates were scheduled through August 2003. The dates are as follows:
 - A. Monday, February 24, 2003
 - B. Monday, March 17, 2003
 - C. Monday, April 21, 2003
 - D. Monday, May 19, 2003
 - E. Friday, June 20, 2003
 - F. Monday, July 21, 2003
 - G. Friday, August 15, 2003

All of the above meetings will be held from 10:00am – 3:00pm E.S.T., at IDEM, 2525 N. Shadeland Avenue, Conference Room C, Indianapolis.
 5. The workgroup discussed having two public hearings before August. Plymouth and Valparaiso were mentioned for northern sites with Columbus and Bloomington mentions for southern sites. The workgroup raised the issues of what the title of the public hearings should be and who should be targeted for notification. It was agreed that the main notification letter should be from IDEM, but that a secondary letter could come from the workgroup.
 6. The workgroup discussed the two draft first notices and made the following suggestions:

- A. Put in language that mentions and cites already existing Great Lakes Initiative regulations.
- B. Possibly beef up the paragraph about the workgroup including issues being discussed.
- C. Incorporate the issues outline.
- D. Write out the Code of Federal Regulations (CFR) cited (Could be too long).
- E. Maybe add something about SEA 431.
- F. Add specific web address.

The workgroup agreed that they did not need to see a revised copy of the first notice before it is sent to LSA for publishing in the Indiana Register.

- 7. The possibility of a technical subcommittee was discussed. It was decided that at this point, it would be premature to establish a technical subcommittee. The group is small enough at this point to be able to discuss issues and keep a good dialogue going.
- 8. The next meeting will be Monday, February 24, 2003 from 10:00a.m. To 3:00p.m, at IDEM, 2525 N. Shadeland Avenue, Conference Room C, Indianapolis.